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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,196	09/30/2003	Joseph D. Krawczyk	46000/0001	5684

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EXAMINER
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FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,196

Applicant(s)

KRAWCZYK ET AL.

Examiner

Joseph A. Fischetti

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**~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 May 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there is no antecedent basis for "said van floor".

Second in part "a", it is unclear what walls the tracks are provided on.

Claim 14 fails to further limit the article claims in that it adds no additional structure to the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,3,5,9,10,11,12,13, and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of Sievert.

Armentrout discloses a stacked product transport cart 1, wheel supported 3 for travel into a delivery vehicle body having a floor, to join like carts positioned in fore to aft extending laterally spaced rows leaving an aisle between them in the delivery vehicle

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body (side rails 10,10 which will space the carts from each other to leaves a space/aisle), the cart having bottom supports (2) on which stacks of product are to be supported at a level above said van floor, side and rear walls (5,5) with interior sides (interior surface of the elements 5,5), and a front side (read as the open side facing the aisle) permitting the unloading of product from said bottom supports. Armentrout discloses a rail 10 provided on laterally across the interior wall of the vehicle which coacts with a correspondingly sized and shaped member which is received within the rail 10. Whether the rail is mounted o the wall of the vehicle or on the cart is deemed to be a mere reversal of parts. However, Armentrout fails to disclose a tarp connected to the cart wherein at least from the cart to provide access within the cart. But, Sievert et al. disclose a tarp 53 which is connected to the cart and which provides access with the cart and wherein a portion of the tarp is disengageable via brace arms 42, 46. It would be obvious to modify the cart in Armentrout to include the tarp of Sievert et al. because the motivation for this is the protection of article being transported.

Re claims 2/3: the securing parts are read as retaining brackets 21 in Armentrout and the locking mechanism is read as device 11.

Re claim 5: the terms front, rear and side are relative terms and the open side of the cart in Armentrout is read as the front side.

Re claim 9 the sliding cover 53 of the combined Sievert et al reference is read as the movable door.

Re claims 10/11: official notice is taken to the old and notorious use of battens in sheet material to maintain a desired shape, e.g. sails and transparent covers to allow viewing of inside contents.

Re claim 12: the spacing which obviously needs to exist between carts along the wall 10 in Armentrout create a bay between each cart.

Re claim 13: the open side of the cart in Armentrout is read as the front side.

Re claim 15: official notice is take regarding the well known use of ramps a the back of hauling vehicles.

Claims 1,2,4,6,7,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of Sievert as applied above, and further in view of Schrecongost. Sievert et al. disclose a tarp 38 which is secured to a track, e.g. brace arms 42,46. H

Re claim 6: it would be obvious to use the hook-like fittings 24,24 of Schrecongost to connection with the cart, the motivation being the ease of releasable connection.

Re claim 7: the terms front, rear, and side are relative terms and the open side of the cart in Armentrout is read as the front side.

Re claim 8: Sievert et a. disclose ties which hold the tarp in a stowed inoperative position. It would be obvious to use a fitting 24 connected to a member 4 of the cart in Armentrout to hood the tarp in place while deployed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication should be directed to Joseph A.

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*Joseph A. Fischetti*  
Primary Examiner  
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